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**UNITED STATES DISTRICT COURT****EASTERN DISTRICT OF TEXAS**

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MARVIN GABRIEL HOLMES,

Plaintiff,

*versus*ZENA STEPHENS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:23-CV-255

**ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff Marvin Gabriel Holmes, a prisoner confined at the Jefferson County Correctional Facility, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Zena Stephens, Bill Stephens, Ken Paxton, and Tekeisha Marie Martin.

The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge’s Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Because he has accumulated three “strikes,” Plaintiff is barred

from proceeding *in forma pauperis* unless he is in imminent danger of serious physical injury at the time the action is filed. Plaintiff's allegations concerning a "remote neuro monitoring" device that was inserted into his tooth filling in 2015 are insufficient to demonstrate that he was in imminent danger when he filed this action. Further, Plaintiff has not paid the \$402.00 filing fee. Accordingly, this action will be dismissed.

**ORDER**

Accordingly, Plaintiff's objections (#6 and #8) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#4) is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 6th day of September, 2023.

Handwritten signature of Marcia A. Crone in black ink.

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE